

Remarks

The Office Action dated February 19, 2009, indicated that claims 1-45 stand rejected under 35 U.S.C. § 101; claims 1-6, 8-16, 21, 23-28, 30, 32-36, 42-49, 51, 53-59, 63-66, 68, 70 and 74 stand rejected under 35 U.S.C. § 103(a) over Hamlin (U.S. Patent No. 5,574,964) in view of Ellis *et al.* (U.S. Patent Publication No. 2005/0251827); claims 20 and 50 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis, and further in view of Goldstein (U.S. Patent No. 5,410,326); claims 7, 22, 29, 31, 37-41, 67 and 75 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis, and in further view of Edens *et al.* (U.S. Patent No. 6,611,537); claims 17-19, 52 and 60-62 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis, and in further view of Cohen *et al.* (U.S. Patent No. 4,837,798); and claims 69 and 71-73 stand rejected under 35 U.S.C. § 103(a) over Hamlin in view of Ellis, and in further view of Lewis (U.S. Patent No. 5,835,126). In this discussion set forth below, Applicant does not acquiesce to any rejection or averment in this Office Action unless Applicant expressly indicates otherwise. In addition, as many of the rejections of various claims are based upon the same alleged correspondence to specific claim limitations, Applicant fully incorporates its traversals of record by reference.

Applicant appreciates Examiner Van Handel's time in discussing the cited references and the instant rejections with Applicant's representative Mr. Eric Curtin (undersigned) on May 18, 2009. The following discussion is consistent with this telephone conversation, and sets forth Applicant's belief that the primary reference (and all combinations therewith) does not disclose, teach or suggest claim limitations including those directed to configuring data for use at an end device. Rather, the primary reference simply frequency-converts data for communicating the data to a particular receiving device over an exclusive range of bandwidth available on a particular communications link. Applicant further believes that the primary reference and related combinations do not disclose limitations directed to configuring and communicating external services data over a packet-based network, using packet headers to address respective end devices (*i.e.*, with data for different end devices communicated on overlapping frequencies). The following discussion more particularly addresses these and other matters.

Applicant submits that the § 103 rejections are improper because the cited frequency translation of incoming signals of the '964 reference does not correspond to the claimed configuration of data into a format usable by a particular end device (*see, e.g.*, independent claim 1). This frequency translation also has no bearing upon the claimed configuration to a

“processor-readable” format amenable for use at a particular end device (*see, e.g.*, independent claims 46 and 65), or to configuring data between “executable” formats (*see, e.g.*, independent claim 55). Generally, the purpose of the ‘964 reference is to use a single cable, such as an existing television cable, to communicate different signals throughout a home without having to wire different cables to handle different services, as consistent with the “operational example” beginning at column 5:10. The cited frequency translation in the ‘964 reference is thus made simply to enable the communication of different incoming signals over a common bus to a particular destination, by translating each of several incoming signals to a mutually-exclusive frequency band as discussed in connection with FIG. 5 at column 5:1-7. Referring to FIG. 1, which is copied below for convenience, the ‘964 reference achieves its purpose by frequency-converting incoming signals at converter 34 and transmitting the frequency-converted signals on a cable 36 to different pods 44.

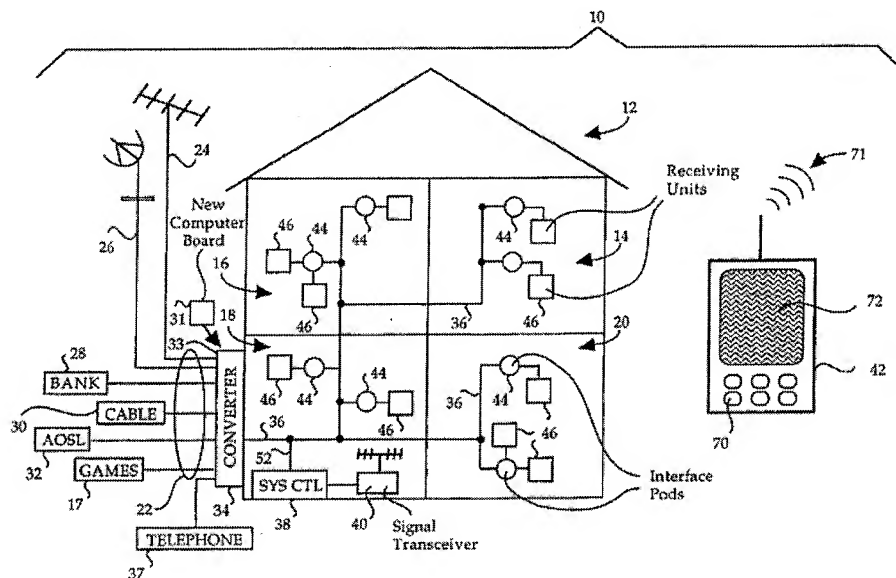


Fig. 1

Once received at the pod, the signal is converted back into a format consistent with its original format, such as back into a format pertaining to a particular received television channel. For instance, as described at column 6:29-65, received television channels are passed to an end device (a VCR) in a television channel format, where the VCR is capable of directly receiving such television channels.

Accordingly, the purpose of the frequency conversion in the ‘964 reference is to allow communications on a common cable, where the receiving units generally operate as if directly

receiving the signals “without requiring unique reception equipment at each of the specific locations” (*see* column 2:3-6). No portion of the ‘964 reference appears to disclose or contemplate any configuration of stored (or received) external-services data for use at a particular appliance based on capabilities of the appliance, as all configuration in the ‘964 reference appears solely to effect the communication of data over a common cable. Moreover, as each signal that is received in the 964 reference is already configured for use by a particular end device (*see, e.g.,* column 1:66-2:3), there is no reason to modify those signals as claimed (*see, e.g.,* independent claim 46). Therefore, the ‘964 reference and various combinations therewith fail to disclose, teach or suggest limitations directed to configuring “the external-services data for use at a particular one of the plurality of appliances in the user facility, based upon capabilities of the particular one of the appliances...” as in claim 1.

In view of the above, Applicant believes that each of the independent claims should be allowable over the ‘964 reference in the various combinations as asserted, as each combination fails to disclose, teach or suggest limitations as directed above.

Applicant further submits that the ‘964 reference, alone or in combination with other references as cited, fails to disclose, teach or suggest various limitations in the dependent claims. For example, regarding the rejection of claim 16, the asserted ability of the “converter 34 being able to convert from mass media signals or internet signals to a single that is communicated on the bus 36” is unsupported in the ‘964 reference, does not provide any indication that its frequency conversion alters data into a non-packet-based format. Rather, it appears that the conversion is for communication purposes only, and has no bearing upon the type of data. As is well-known, packet-based data such as satellite television data can be frequency converted to render the data amenable to communication to a particular device, without changing the configuration of the data itself.

Applicant also submits that the ‘964 reference fails to disclose, teach or suggest limitations in the amended dependent claims. Specifically regarding claim 2, the cited references do not disclose configuring data into a different processor-readable format required by an end device to which the data is sent. Regarding claim 3, the cited references fail to disclose performing a non-frequency-based reconfiguration of external services data to configure the data into a new format for use by a particular appliance. Regarding claim 4, the cited references fail to disclose configuring external-services data into a different processing format for use by a

processing circuit in a particular type of end device, and further to package the configured external-services data into a different communications format for communicating the data to the particular end device. Regarding claim 5, the cited references fail to disclose communicating stored external services data in a packetized format using data packets including a packet header that identifies a destination packet-based address to which the stored external services data is to be sent, where such a bussing arrangement communicates data on common frequencies.

Applicant further traverses the § 103 rejections because any modification of the signal distribution system of the '964 reference that would reconfigure the received data into a different format would undermine the '964 reference's purpose, which is directed to "distribute multiple received signals having different formats .. to various locations within a structure without requiring unique reception equipment at each of the specific locations." That is, the end devices remain compatible with the received signals, which are simply routed on a particular communication frequency and not configured as discussed above. Consistent with the recent Supreme Court decision, M.P.E.P. § 2143.01 explains the long-standing principle that a §103 rejection cannot be maintained when the asserted modification undermines either the operation or the purpose of the main ('983) reference - the rationale being that the prior art teaches away from such a modification. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742 (2007) ("[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious."). *See also In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984) (A §103 rejection cannot be maintained when the asserted modification undermines purpose of the main reference.). Accordingly, as the proposed modifications of the '964 reference to arrive at the claimed invention would involve configuring data in a manner that would change that data relative to its intended use, such modification would appear to render the '964 reference inoperable for its purpose (*e.g.*, if received television signals were configured into a different format, the signals would not be usable as intended).

Regarding the § 101 rejections of claims 1-45, Applicant submits that the recited "arrangement" is clear as to statutory class, as consistent with the claims themselves and with the supporting disclosure. For instance, regarding independent claim 1, the arrangement clearly includes various circuit-based components. Notwithstanding this, Applicant has amended claim 1 to add the term "circuit" before arrangement, and believes that the § 101 rejections are no longer applicable.


For at least these reasons, and further for those reasons of record (which are fully incorporated herein), Applicant believes that the rejections are improper and should be removed. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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